

What if I am detained?

If you are detained at a community detention facility or Juvenile Hall, you normally must be released to a parent or guardian. If charges are filed against you, you have the right to have a lawyer appointed to represent you at no cost.

Do I have rights at school?

Public school students have the First Amendment right to politically organize at school by passing out leaflets, holding meetings, publishing independent newspapers, etc., just so long as those activities do not disrupt classes. Students can be suspended or expelled from school only if they violate the law or disrupt school activities. You have the right to a hearing, with your parents and an attorney present, before being suspended or expelled.

Students can have their backpacks and lockers searched by school officials without a warrant, if they suspect that you are involved in criminal activity or carrying drugs or weapons. Do not consent to the police or school officials searching your property, but do not physically resist or you may face criminal charges. Students can be stopped and questioned by school officials at school, for example if you are not in class. However, they should not stop and question you for engaging in political activity or because of your ethnicity or religion. If you think your rights have been violated, call one of the organizations on the front or below.

NLG National Post-911 Project
212-627-2656 • www.nlg.org

NLG National Immigration Project
617-227-9727 • <http://www.nlg.org/nip/>

This pamphlet was produced by the National Lawyers Guild, which is solely responsible for its content. Nothing herein is intended to interfere with any legitimate law enforcement investigation.

The National Lawyers Guild is a 65-year-old membership organization of progressive lawyers, law students, legal workers and jail-house lawyers fighting for social justice. Donations for printing this pamphlet and for the legal hotline can be made out to NLG, earmarked "Know Your Rights," and sent to 558 Capp Street, San Francisco, CA 94110.

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KNOW YOUR RIGHTS!



**National Lawyers Guild
Bay Area Legal Hotline:**
For legal help if you are arrested or
contacted by police, FBI, INS
415-285-1055

**American Arab
Anti-Discrimination Committee**
General Info: 415-861-7444

Toll Free Community Resource Hotline
(to report hate crimes, discrimination, etc.)
877-282-2288

Lawyers Committee for Civil Rights
Legal help for victims of hate crimes,
discrimination, etc. 415-543-9444

I. What rights do I have?

Whether or not you're a citizen, you have these constitutional rights:

- **The Right to Remain Silent.** The Fifth Amendment to the U.S. Constitution gives every person the right not to answer questions asked by a police officer or government agent.
- **The Right to be Free from "Unreasonable Searches and Seizures."** The Fourth Amendment is supposed to protect your privacy. Without a warrant, police or government agents may not search your home or office without your consent, and you have the right to refuse to let them in. They can enter and search without a warrant in an emergency. New laws have expanded the government's authority to conduct surveillance. It is possible that your e-mail, cell and other telephone calls, and conversations in your home, office, car or meeting place are being monitored without your knowledge.
- **The Right to Advocate for Change.** The First Amendment to the U.S. Constitution protects the rights of groups and individuals who advocate changes in laws, government practices, and even the form of government. However, the INS can target non-citizens for deportation because of their First Amendment activities, as long as it could deport them for other reasons.

CONSTITUTIONAL RIGHTS CANNOT BE SUSPENDED—EVEN DURING A STATE OF EMERGENCY OR WARTIME—AND THEY HAVE NOT BEEN SUSPENDED BY THE "USA PATRIOT ACT" OR OTHER RECENT LEGISLATION!

II. What if the police or FBI contacts me?

What if agents come to question me?

YOU DO NOT HAVE TO TALK TO THE POLICE, FBI, INS, OR ANY OTHER LAW ENFORCEMENT AGENT OR INVESTIGATOR. You can't lawfully be arrested for refusing to identify yourself on the street, although this may make the police suspicious, and police and other agents do not always follow the law. If you are driving a vehicle, you must show your license and registration. Otherwise, you do not have to talk to anyone: on the street, at your

home or office, if you've been arrested, or even if you're in jail. Only a judge has the legal authority to order you to answer questions.

Do I need a lawyer?

IF YOU ARE CONTACTED, TELL THE AGENT YOU WANT TO TALK TO A LAWYER. Once you say this, they should stop trying to question you and should make any further contact through your lawyer. You have the right to say that you want to talk to a lawyer even if you do not already have one. Remember to get the name, agency, and telephone number of any investigator who calls or visits you, and call the NLG, or a criminal or immigration lawyer, before deciding whether to answer questions. If you do agree to be interviewed, you have the right to have a lawyer present. The government does not have to provide you with a free lawyer unless you are charged with a crime, but the NLG or another organization may be able to find you a lawyer for free or a reduced rate.

If I refuse to answer questions or if I say I want a lawyer, won't it seem like I have something to hide?

TALKING TO THE FBI OR OTHER AGENTS CAN BE DANGEROUS. You can never tell how a seemingly harmless bit of information might be used to hurt you or someone else. That is why the right not to talk is a fundamental right under our Constitution. The FBI is not just trying to find terrorists, but is gathering information on immigrants and activists who have done nothing wrong. And keep in mind that even though they are allowed to and do lie to you, lying to a federal agent is a crime. The safest things to say are "I am going to remain silent," "I want to speak to my lawyer," and "I do not consent to a search."

Can agents search my home, apartment or office?

YOU DO NOT HAVE TO LET POLICE OR OTHER LAW ENFORCEMENT AGENTS INTO YOUR HOME OR OFFICE UNLESS THEY HAVE A SEARCH WARRANT. However, your roommate or guest can legally consent to a search of your house if the police believe that person has the authority to give consent and your employer can consent to a search of your office. Do not try to physically interfere with the police or agents, even if the search is illegal, or you will likely be arrested. Say "I do not consent to a search." Do not answer any questions. Call the NLG or a criminal lawyer.

If agents come to arrest me in my home, can they search my home?

They can search the area near where you are arrested but not your entire house, unless they have a search warrant.

What if I am not at home?

Under the new "USA Patriot Act", under certain circumstances agents may surreptitiously search and not notify you until afterward, perhaps a long time afterward. It is uncertain whether this provision will stand up in light of the Fourth Amendment. If you suspect your home or office has been searched or that you are being surveilled, contact the NLG or a criminal lawyer.

What if they do have a search warrant?

DEMAND TO SEE THE WARRANT. The warrant must tell in detail the places to be searched and the people or things to be seized. If the police have a warrant, you cannot stop them from entering and searching, but you *should still tell them that you do not consent to a search.* This will limit them to search only where the warrant authorizes. Ask if you are allowed to watch the search and if so, watch and take notes including names, badge numbers, and what agency the officers are from. Have friends act as witnesses. Give this information to your lawyer. If the officers ask you to give them documents, your computer, or anything else, look to see if the item is listed in the warrant. If it is not, do not consent to them taking it without talking to a lawyer. Even if they have a search warrant, *you still do not have to answer any questions.* Call the NLG for help getting a criminal lawyer.

What if the police stop me on the street?

ASK IF YOU ARE FREE TO GO. If they say "yes," walk away. If you are not free to go, you are being detained, but this does not necessarily mean you will be arrested. They are entitled to frisk you. A frisk is a pat down on the outside of your clothing. Do not consent to any further search. But if they continue, or in some other way violate your rights, stay calm and don't physically resist police or agents. You will only be hurt and arrested. Stick to "I don't consent, I want to speak to my lawyer;" get the officer's name, badge number, and agency; and call a lawyer or the NLG at your first opportunity. You do not have to answer questions or give a statement if you are detained or even if you are arrested.

Do I have to give my name?

Legally, you do not have to give your name unless they suspect you of a crime, but refusing to give your name is likely to arouse suspicion. Be aware that police/agents may be carrying a list of deportable aliens. Giving a false name could be a crime. If you are driving a car, you must show them your license, registration and proof of insurance, but you do not have to consent to a search, although the police may have legal grounds to search your car anyway.

What if the police or FBI threaten me with a grand jury subpoena if I refuse to talk?

A grand jury subpoena is a written order for you to go to court and testify about information you may have. It is common for the FBI to threaten you with a subpoena to get you to talk to them. Don't be intimidated. This is frequently an empty threat, and if they are going to subpoena you, they will do so anyway. Receiving a subpoena to testify before a grand jury doesn't mean that you are suspected of a crime. And you may have legal grounds to stop the subpoena or to refuse to answer questions before the grand jury. If you do receive a subpoena, call the NLG or a criminal lawyer right away.

What if I am treated badly by the police or FBI?

Try to remember the officer's badge number and/or name. You have the right to ask the officer to identify himself. Write down everything as soon as you can and try to find witnesses. If you are injured, see a doctor and take pictures of the injuries as soon as possible. Call the NLG or one of the other organizations listed on the front and back panels as soon as possible.

III. What if I am not a citizen and the INS contacts me?

Assert your rights. If you do not demand your rights or if you sign papers waiving your rights, the INS may deport you before you see a lawyer or an immigration judge.

Talk to a lawyer. Always carry with you the name and telephone number of an immigration lawyer and who will take your calls. You must carry your immigration papers such as "green card," I-94, work authorization with you as well. The immigration laws are hard to understand and there have been many changes since September 11. More changes are likely. INS will not explain your options to

you. As soon as you encounter an INS agent, call your attorney. If you can't do it right away, keep trying.

Always talk to an immigration lawyer before leaving the U.S. Even some legal permanent residents and applicants for LPR can be barred from returning.

Based on today's laws, non-citizens usually have the rights below, no matter what your immigration status. However, this information may change, which is why it's important to talk to an immigration lawyer. Also, foreign nationals trying to enter the U.S. at the border or airport do not have all of these same rights.

- You usually have the right to talk to a lawyer before answering any questions or signing any papers. You have the right to call an attorney or your family if you are detained, and you have the right to be visited by an attorney in detention. You have the right to have your attorney with you at any hearing before an immigration judge. You do not have the right to a government-appointed attorney, so you must hire one or find someone who will represent you for free. Call the numbers listed on the front and back panels for help finding an attorney.
- You do not have to answer questions about your immigration status or any other questions. You are better off talking to a lawyer first.
- If you are arrested or detained, the INS must decide in 48 hours whether to put you into immigration proceedings and whether to keep you in custody or to release you on bond. However, under new laws, the INS has an "additional reasonable period of time" past 48 hours in the event of "an emergency or other extraordinary circumstance" to decide whether to keep you in custody. Make sure your attorney talks to national immigration rights organizations if the INS is keeping you in detention on the basis of these new laws (see the contact numbers on the front and back panels.)
- In most cases, you have the right to ask for release from detention by paying a bond, or to ask for a bond hearing before an immigration judge. You have these rights even if you have not been charged by the INS. The law does not say when an immigration judge must hear your case. The judge may order you to stay in detention if he or she finds that you are a danger to society or might try to get away. In some cases, the law says you can't be released if you are charged with terrorism or have certain criminal convictions.

- In most cases, you have the right to a hearing before an immigration judge before you can be deported. But if you waive (give up) your rights or take "voluntary departure" (agree to leave), you could be deported without a hearing. If this happens, you may never be able to enter the U.S. legally again or get legal immigration status. If you have criminal convictions, were arrested at the border, or have been ordered deported in the past, you must talk to an attorney about whether you have this right and what other legal alternatives you might have.
- If you are a foreign national arrested in the U.S., you have the right to call your consulate or to have the police inform the consulate of your arrest. The police must allow your consul to visit or speak with you. Your consul might assist you in finding a lawyer or offer other help, such as contacting your family. *You also have the right to refuse help from your consulate.*

IV. What are my rights at airports?

You gave airport personnel permission to scan you and your bags by buying a ticket and going to the airport. They can do additional *random* searches of persons and property regardless of whether the initial scan turns up anything suspicious. If the scan *does* disclose something that might be a weapon, the law is unclear whether you have the right to leave the airport rather than being searched. The airplane pilot can refuse to fly a passenger if he or she believes the passenger is a threat to the safety of the flight. And if you are entering the country, the U.S. Customs Service has the right to stop and search every person and item.

But you should not be barred from flying or subjected to special searches or harassment on the basis of your race, sex, religion, national origin, or political beliefs. If you believe this is the case, call one of the organizations on the front and back panels.

V. What if I am under 18?

Do I have to answer questions?

No. Minors too have the right to remain silent. You do not have to talk to the police, probation officers, or school officials.